



Thursday, February 11, 2016

House Budget & Research Office
(404) 656-5050

House Media Services
(404) 656-0305

- The House will reconvene for its 21st Legislative Day on Tuesday, February 16 at 10:00 a.m.
- The Rules committee will meet at 9:00 a.m.
- 13 bills / resolutions are expected to be debated on the floor.

Today on the Floor

Rules Calendar

HB 193 Life Insurance Consumer Disclosure Model Act; enact

Bill Summary: House Bill 193 provides that no insurer shall penalize an agent for advising a policy holder of the living benefits contained in a life insurance policy.

Authored By: Rep. Carl Rogers (29th)
House Committee: Insurance

Rule Applied: Modified-Open
Committee Action: 02-03-2016 Do Pass by Committee Substitute

Floor Vote: Yeas: 157 Nays: 0

HB 219 Health; swimming pools; exempt certain privately owned pools from inspection and licensing requirements

Bill Summary: HB 219 exempts private swimming pools, to include pools in apartment complexes, country clubs, subdivisions, condominium associations, town homes, and time shares, from health inspections by the Department of Public Health; however, a resident, member, or the owner of the private swimming pool may request an inspection of the pool at any time for informational purposes only.

Authored By: Rep. J. B. Jones (167th)
House Committee: State Planning & Community Affairs

Rule Applied: Modified-Open
Committee Action: 02-01-2016 Do Pass by Committee Substitute

Floor Vote: Yeas: 152 Nays: 8

HB 757 Domestic relations; religious officials shall not be required to perform marriage ceremonies in violation of their legal right; provide

Bill Summary: HB 757 repeals O.C.G.A. 19-3-3.1, relating to marriage generally, and replaces it with ministerial protections. Specifically, clergy ordained or authorized to solemnize marriages, according to the usages of his or her denomination and acting in an official religious capacity, shall not be required to solemnize any marriage in violation of his or her right to free exercise of religion under the United States or Georgia Constitutions. A refusal by such clergy shall not give rise to a cause of action.

HB 757 also amends Code Section 10-1-573, relating to day of rest for employees of business and industry, to prohibit any business or industry from being compelled to work on either of the two rest days (Saturday or Sunday) by ordinance or resolution of any county, municipality, or consolidated government.

HB 757 exempts religious organizations from being required to rent, lease, or otherwise grant permission for property to be used by another person for purposes which are objectionable to such religious organization. A refusal by such religious organization shall not give rise to a cause of action.

Authored By: Rep. Kevin Tanner (9th)
House Committee: Judiciary

Rule Applied: Structured
Committee Action: 02-09-2016 Do Pass by Committee Substitute

Floor Vote: Yeas: 161 Nays: 0

HB 769 Ad valorem tax; certain watercraft held for sale or resale; make permanent an exemption

Bill Summary: This legislation permanently exempts watercraft held in inventory by a dealer for sale or resale from ad valorem taxation by removing the sunset provision set to expire on December 31, 2019.

Authored By: Rep. Lee Hawkins (27th)
House Committee: Ways & Means

Rule Applied: Structured
Committee Action: 02-04-2016 Do Pass

Floor Vote: Yeas: 161 Nays: 0

HB 811 Banking and finance; update, modernize, and streamline numerous Code sections; revise provisions

Bill Summary: HB 811 extensively amends Title 7, relating to banking and finance, to update, modernize, and streamline numerous Code sections to provide for efficient regulation of banks, trust companies, credit unions, merchant acquirer limited purpose banks, and the mortgage lending industry.

Specifically, the bill revises the powers and duties of the Department of Banking and Finance, as well as its commissioner, deputy commissioners and examiners. Before entering office, the commissioner of the Department of Banking and Finance will still take the oath of office before the governor or a justice of the supreme court, but all other deputies and examiners may take the oath before the commissioner. Bond surety duties of the commissioner and deputy commissioners are removed. Collection of amounts owed through the Attorney General's office will no longer be limited to outstanding fees.

Financial institutions will not be required to publish an annual abstract summary of two of its reports unless requested to do so by the department.

Virtual currency is defined and includes digital representation of monetary value that does not have legal tender status and requires fair practice standards by those who deal with virtual currency.

The department shall provide rules for when and what type of insurance banks must obtain upon cancellation of deposit insurance, rather than the mandatory six-month period.

In order to comply with other parts of the Code, federal law and federal court decisions, the bill updates and eliminates certain provisions, such as: substituting the term "financial institution" for bank, and substituting specific provisions in favor of rules that are issued by certain federal public bodies for out-of-state banks. Georgia banks are allowed to establish branches in other states without obtaining permission by Georgia law or regulation.

The bill provides new provisions to remove a member of a credit union's board of directors, and requires meeting times to be set by bylaws, as well as other like provisions and principles on corporations regarding general fair dealings, mergers, consolidation, and criminal proceedings.

Finally, the bill deletes all appearances of and references to the term "building and loan associations."

Authored By: Rep. Bruce Williamson (115th)
House Committee: Banks & Banking

Rule Applied: Modified-Structured
Committee Action: 02-04-2016 Do Pass by Committee Substitute

Floor Vote: Yeas: 161 Nays: 1

HB 821 "Military Spouses and Veterans Licensure Act"; enact

Bill Summary: This bill, relating to the general provisions applicable to professions and businesses, requires professional licensing boards and other boards to adopt rules and regulations implementing a process by which military spouses and transitioning service members may qualify for temporary licenses, licenses by endorsement, expedited licenses, or a combination these for each profession, business, or trade for which a license is issued.

Authored By: Rep. Al Williams (168th)
House Committee: Small Business Development

Rule Applied: Modified-Open
Committee Action: 02-09-2016 Do Pass

Floor Vote: Yeas: 164 Nays: 0

HB 822 Sales and use tax; energy used in agriculture; revise definition

Bill Summary: This legislation revises the definition under the energy used in agriculture tax exemption by updating the obsolete reference to prepaid "state" tax to prepaid tax.

Authored By: Rep. Christian Coomer (14th)

House Committee: Ways & Means

Floor Vote: Yeas: 154 Nays: 10

Rule Applied: Structured

Committee Action: 02-04-2016 Do Pass

HR 1198 Natural Resources, Department of; Environmental Protection Division; review its regulations providing for the protection of underground drinking water; encourage

Bill Summary: HR 1198 encourages the Environmental Protection Division (EPD) to review its current regulations regarding aquifer storage and recovery to ensure they are sufficient and to revise those rules if necessary. EPD is urged to report its review to the Board of Natural Resources no later than June 30, 2017.

Authored By: Rep. Lynn Smith (70th)

House Committee: Natural Resources & Environment

Floor Vote: Yeas: 161 Nays: 0

Rule Applied: Structured

Committee Action: 02-04-2016 Do Pass by Committee Substitute

Local Calendar**HB 888 Upson County; Juvenile Court; transfer probation and intake services to the Georgia Department of Juvenile Justice**

Bill Summary: A Bill to transfer probation and intake services of the Juvenile Court of Upson County to the Georgia Department of Juvenile Justice.

Authored By: Rep. Johnnie Caldwell (131st)

House Committee: Intragovernmental Coordination - Local

Floor Vote: Yeas: 146 Nays: 0

Rule Applied:

Committee Action: 02-10-2016 Do Pass

HB 890 Tattnall County; terms of the members of the board of education; stagger

Bill Summary: A Bill to provide for the election of the members of the board of education of Tattnall County, so as to stagger the terms of the members of the board of education.

Authored By: Rep. William Werkheiser (157th)

House Committee: Intragovernmental Coordination - Local

Floor Vote: Yeas: 146 Nays: 0

Rule Applied:

Committee Action: 02-10-2016 Do Pass

HB 925 Atkinson County; Board of Education; change compensation of members

Bill Summary: A Bill to amend an Act reconstituting the Board of Education of Atkinson County, so as to change the compensation of the members.

Authored By: Rep. Jason Shaw (176th)

House Committee: Intragovernmental Coordination - Local

Floor Vote: Yeas: 146 Nays: 0

Rule Applied:

Committee Action: 02-10-2016 Do Pass

HB 930 Blairsville, City of; provide new charter

Bill Summary: A Bill to provide a new charter for the City of Blairsville.

Authored By: Rep. Stephen Allison (8th)

House Committee: Intragovernmental Coordination - Local

Floor Vote: Yeas: 146 Nays: 0

Rule Applied:

Committee Action: 02-10-2016 Do Pass

Amendments:

HB 932 Thomas County; levy an excise tax

Bill Summary: A Bill to authorize the governing authority of Thomas County to levy a hotel/motel tax.

Authored By: Rep. Darlene Taylor (173rd)

House Committee: Intragovernmental Coordination -
Local

Floor Vote: Yeas: 146 Nays: 0

Rule Applied:

Committee 02-10-2016 Do Pass

Action:

Amendments:

HB 940 Forsyth County; position of IT/special projects administrator of the Clerk of Superior Court; exempt application of the civil service system

Bill Summary: A Bill to amend the Forsyth County Civil Service System Act, so as to exempt the position of IT/special projects administrator of the office of the Clerk of Superior Court of Forsyth County from the application of the Forsyth County civil service system.

Authored By: Rep. Sheri Gilligan (24th)

House Committee: Intragovernmental Coordination -
Local

Floor Vote: Yeas: 146 Nays: 0

Rule Applied:

Committee 02-10-2016 Do Pass

Action:

Amendments:

SB 315 Forsyth County Public Facilities Authority; revise a definition; provide a monetary limitation

Bill Summary: A Bill to revise the Forsyth County Public Facilities Authority, so as to change a definition and provide a monetary limitation.

Authored By: Sen. Michael Williams (27th)

House Committee: Intragovernmental Coordination -
Local

Floor Vote: Yeas: 146 Nays: 0

Rule Applied:

Committee 02-10-2016 Do Pass

Action:

Amendments:

Next on the Floor from the Committee on Rules

The Committee on Rules has fixed the calendar for the 21st Legislative Day, Tuesday, February 16, and bills may be called at the pleasure of the Speaker. The Rules Committee will next meet on Tuesday, February 16, at 9:00 a.m., to set the Rules Calendar for the 22nd Legislative Day.

HB 34 Georgia Right to Try Act; enact

Bill Summary: HB 34, the 'Georgia Right to Try Act,' grants some terminally-ill patients faster access to investigational drugs that have passed phase one in the three-phase FDA drug approval process. The bill only grants access to investigational drugs, biological products, or devices for eligible patients with terminal illnesses. The process requires written informed consent, as well as full voluntary cooperation from all parties. Under HB 34, manufacturers are not required to offer the treatment, and health insurance companies are not required to pay for the treatment. Doctors, as well as other involved participants, are indemnified.

Authored By: Rep. Mike Dudgeon (25th)
House Committee: Health & Human Services

Rule Applied: Modified-Structured
Committee Action: 02-02-2016 Do Pass by Committee Substitute

HB 561 Adoptable dog; official state dog; designate

Bill Summary: House Bill 561 designates the adoptable dog as the official state dog.

Authored By: Rep. Joe Wilkinson (52nd)
House Committee: Governmental Affairs

Rule Applied: Modified-Open
Committee Action: 02-03-2016 Do Pass

HB 588 Controlled substances; possession of substances containing ephedrine, pseudoephedrine, and phenylpropanolamine and restrictions of sale of products containing pseudoephedrine; change provisions

Bill Summary: HB 588 amends O.C.G.A 16-13-30.3 by removing phenylpropanolamine from the definition of drug products that contain ephedrine or pseudoephedrine. Under the provisions of this bill, retail distributors must require customers to issue a valid government ID when purchasing a product containing ephedrine or pseudoephedrine. Additionally, the retail distributor must maintain a record of certain "required information", defined in the bill as the full name and address of the purchaser; the type of government ID; a description of the product purchased; and the date and time of the purchase.

Further, retail distributors must electronically track such sales using a "real-time electronic logging system", defined in the bill as a system that can track required information and generate a stop sale alert to notify a retail distributor that the purchase exceeds the quantity limits (9 grams of ephedrine or pseudoephedrine per 30 day period in dosage form; or 3.6 grams of ephedrine or pseudoephedrine per day in dosage form). The system will also contain an override function to be utilized in the event that the cashier is in imminent danger if the sale is not made; however, the system will still track any override sales. This system must be approved by the Georgia Bureau of Investigation (GBI) and be offered free of charge to the state, retail distributors, and law enforcement agencies.

Authored By: Rep. Valerie Clark (101st)
House Committee: Health & Human Services

Rule Applied: Modified-Structured
Committee Action: 02-09-2016 Do Pass by Committee Substitute

HB 592 Professional engineers and land surveyors; provide profession of professional structural engineer; provisions

Bill Summary: HB 592 adds professional structural engineers and structural engineering to the regulations governing professional engineers and land surveyors. Also, the Board of Professional Engineers and Land Surveyors is granted the power to determine the rules and requirements for structural engineers to obtain and renew certificates of registration to practice as a structural engineer. To be eligible for a certificate of registration as a professional structural engineer, the minimum requirements are: not less than four years' experience in structural engineering work and pass a 16 hour

written exam, or obtain a certification by the board as an engineer in training, seven years' experience in structural engineering and pass a 16 hour written exam.

Authored By: Rep. Brett Harrell (106th)
House Committee: Regulated Industries

Rule Applied: Modified-Open
Committee Action: 02-09-2016 Do Pass

HB 738 Local government; county law libraries; revise uses of excess funds

Bill Summary: House Bill 738 provides that excess funds, as determined by the board of trustees of a county law library, will be granted to charitable tax exempt organizations which provide civil legal representation for low-income people; or be used to purchase software, equipment, fixtures, or furnishings for the office of the district attorney or solicitor-general or for county judicial facilities, including but not limited to courtrooms and jury rooms.

Currently, excess funds are granted to the former or distributed to the county governing authority and then are appropriated for courthouse maintenance through the budgetary process.

Authored By: Rep. Johnnie Caldwell (131st)
House Committee: Governmental Affairs

Rule Applied: Modified-Open
Committee Action: 02-03-2016 Do Pass by Committee Substitute

HB 764 Motor vehicles; drivers to stop at crosswalks with pedestrian-activated rectangular rapid flash beacons; require

Bill Summary: HB 764 amends Title 40 by adding a definition of a "rectangular rapid flash beacon," which is a user-activated device with amber lights that supplements warning signals at unsignalized intersections or mid-block crosswalks. The legislation requires a driver to stop to allow a pedestrian to cross within the crosswalk when the device is activated. Further, it states that a pedestrian who does not intend to cross the roadway shall not activate the device.

Authored By: Rep. Alan Powell (32nd)
House Committee: Public Safety & Homeland Security

Rule Applied: Modified-Structured
Committee Action: 02-09-2016 Do Pass by Committee Substitute

HB 798 HOPE; home study students who receive certain scores on standardized college admission tests; provide eligibility

Bill Summary: House Bill 798 provides for home study students who receive scores in the 75th percentile or higher nationally on standardized college admissions test to be eligible for the HOPE Scholarship. The eligibility requirements for the Zell Miller Scholarship are also modified to require a score in the 80th percentile or higher on the ACT or SAT and a GPA of at least 3.7 for students graduating from eligible high schools. The bill further modifies the requirements for the Zell Miller Scholarship to require a score in the 93rd percentile or higher on the SAT or ACT for home study students and students having graduated from a high school which is not eligible.

Authored By: Rep. Joyce Chandler (105th)
House Committee: Higher Education

Rule Applied: Modified-Structured
Committee Action: 02-02-2016 Do Pass by Committee Substitute

HB 853 "Coverdell-Murphy Act"; update current system of levels of certified stroke centers to reflect advances in stroke treatments and therapy; provisions

Bill Summary: HB 853 encourages hospitals to establish comprehensive stroke centers to provide care to patients who experience complex strokes. Additionally, this bill promotes the establishment of remote treatment stroke centers to provide treatment to patients in rural and other underserved areas of the state.

Under the provisions of this bill, the Department of Public Health is authorized to establish one or more additional levels of stroke centers, in consultation with the Georgia Coverdell Acute Stroke Registry. Any hospital identified as a comprehensive or primary stroke center must be certified by a national health care accreditation body recognized by the Department of Public Health. Additionally, remote treatment stroke centers must be certified and identified by the Department of Public Health.

Authored By: Rep. Lee Hawkins (27th)
House Committee: Health & Human Services

Rule Applied: Modified-Structured
Committee Action: 02-02-2016 Do Pass by Committee Substitute

HB 871 "Georgia Lemon Law"; consumer fees forwarded to the Department of Law for deposit in the new motor vehicle arbitration account; require

Bill Summary: HB 871 moves the quarterly deposits associated with the collection of Georgia's 'Lemon Law' consumer fees from the Governor's Office of Planning and Budget to the Department of Law.

Authored By: Rep. Robert Dickey (140th)
House Committee: Judiciary

Rule Applied: Modified-Structured
Committee Action: 02-04-2016 Do Pass

HB 882 Insurance; foreign and alien insurer deposit requirement of securities eligible for investment of capital funds in certain amounts; eliminate

Bill Summary: House Bill 882 eliminates the Code requirement for each foreign and alien insurer to deposit a specific amount (not less than \$10,000 nor more than \$25,000) for securities eligible for capital investment and allows the amount to be determined by the commissioner which aligns with a National Association of Insurance Commissioners' (NAIC) accreditation requirement.

Authored By: Rep. Darlene Taylor (173rd)
House Committee: Insurance

Rule Applied: Modified-Open
Committee Action: 02-10-2016 Do Pass by Committee Substitute

HB 883 Insurance; insurers rehabilitation and liquidation; change certain provisions

Bill Summary: House Bill 883 updates provisions on insurer rehabilitation and liquidations in accordance with National Association of Insurance Commissioners' (NAIC) accreditation standards and changes claims procedures for ancillary receiverships.

Authored By: Rep. Darlene Taylor (173rd)
House Committee: Insurance

Rule Applied: Modified-Open
Committee Action: 02-10-2016 Do Pass by Committee Substitute

HB 884 Insurance; company action level event to include a health organization with certain total adjusted capital levels; revise definition

Bill Summary: House Bill 884 revises the definition of "company action level event" to include a health organization with certain total adjusted capital levels and applies risk-based capital computations of a company action level event to health organizations, primarily health insurer and health plans.

Authored By: Rep. Darlene Taylor (173rd)
House Committee: Insurance

Rule Applied: Modified-Open
Committee Action: 02-10-2016 Do Pass

HB 885 Health; certain counties to create a county board of health and wellness; repeal statute

Bill Summary: House Bill 885 repeals Code Section 31-3-2.1, which relates to the option for certain counties to create a board of health and wellness by ordinance. Any affected county board of health will fall under the jurisdiction of the state system.

Authored By: Rep. Jan Jones (47th)
House Committee: Governmental Affairs

Rule Applied: Modified-Open
Committee Action: 02-10-2016 Do Pass

Committee Actions

Bills passing committees are reported to the Clerk's Office and are placed on the General Calendar.

Judiciary Committee

HB 808 Courts; Judicial Qualifications Commission; create

Bill Summary: HB 808 adds a new Code section to create a selection process for the Judicial Qualifications Commission (JQC) and revises the membership. Of the seven members, two judges of any court of record are selected by the Supreme Court and the five additional members must be members of the State Bar of Georgia with at least ten years active status. The governor will make three appointments, one of which shall be an attorney and the other two non-attorneys; and the Speaker of the House and President of the Senate will each have one appointment. The commission may adopt procedures for its own governance which are not otherwise provided by the State Constitution. The bill removes the exemption from open meetings requirements for the commission's meetings. The companion legislation that provides the amendment to the State Constitution is House Resolution 1113.

Authored By: Rep. Wendell Willard (51st)

House Committee: Judiciary

Committee Action:

02-11-2016 Do Pass by Committee Substitute

HB 927 "Appellate Jurisdiction Reform Act of 2016"; enact

Bill Summary: HB 927 amends Title 15, relating to certiorari and appeals to appellate courts generally, receivership powers and procedures generally, extraordinary writs, elections and primaries generally, decrees, recordation and registration of deeds and other instruments, and proceedings to determine county entitled to return and payment.

Specifically, 15-2-19 and 15-3-9, are amended to enable the Georgia Supreme Court and Georgia Court of Appeals, respectively, to hire law students as full time clerks, provided those clerks pass the bar within one year of their hiring. 15-3-1, relating to the Court of Appeals and its composition, division, manner in which it hears cases, creates precedent is amended so that the Court of Appeals shall provide by rule the establishment of the aforementioned provisions.

15-3-3.1 is amended to grant the Court of Appeals appellate jurisdiction over cases involving titles to land, non-death-penalty equity cases, wills, extraordinary remedies not involving the death penalty, divorce and alimony cases, and all other cases not reserved to the Supreme Court or conferred on other courts.

Amends 5-6-14, relating to Superior Courts being able to give immediate effect to judgments rendered by the Supreme Court to include all appellate court decisions.

Amends 7-1-155, relating to receivership powers and procedures generally, to include appellate courts having appellate review and not just the Supreme Court.

Amends 9-6-28, relating to mandamus cases, to include appellate courts having appellate review and not just the Supreme Court.

Amends 21-2-171, relating to review and appeal of denial of nomination petitions, to include appellate courts having appellate review and not just the Supreme Court.

Amends 21-2-528, relating to review and appeal of court's determination on contest petitions, to include appellate courts having appellate review and not just the Supreme Court.

Amends 23-4-33, relating to review of decrees in will or contract matters, to include appellate courts having appellate review and not just the Supreme Court.

Amends 44-2-103, relating to recordation and registration of deeds and other instruments, to include appellate courts having appellate review and not just the Supreme Court.; and amends when a judge shall recommit the record to the examiner, to reflect the changes made in the preceding provisions.

Amends 44-2-136, relating to cancellation of a mortgage, by removing jurisdiction over correction of errors in the trial court from the Supreme Court.

Amends 21-2-171, relating to review and appeal of proceedings to determine county entitled to return and payment, to include appellate courts having appellate review and not just the Supreme Court.

Amends 15-2-1.1, relating to number of Supreme Court Justices by increasing the number from 7 to 9.

Amends 15-2-10, which is "reserved" by empowering the Governor with appointment power of the additional justices created in 2016, for a term beginning January 1, 2017, and continuing through December 31, 2018, and until their successors are elected and qualified. Their successors shall be elected in the manner provided by law for the election of Supreme Court Justices at the nonpartisan judicial election in 2018, for a term of six years beginning on January 1, 2019, and until their successors are elected and qualified. Future successors shall be elected at the nonpartisan judicial election each sixth year after such election for terms of six years and until their successors are elected and qualified. They shall take office on the first day of January following the date of the election.

Changes the place of session terms of the Supreme Court to more closely coincide with the school calendar and state holidays.

Authored By: Rep. Christian Coomer (14th)

House Committee: Judiciary

Committee Action:

02-11-2016 Do Pass by Committee Substitute

HR 1113 Judicial Qualifications Commission; create - CA

Bill Summary: HR 1113 provides the ballot question to amend the Georgia Constitution by abolishing the existing Judicial Qualifications Commission effective December 31, 2016, in order for the General Assembly to create and provide by general law for the composition, manner of appointment, and governance of a new Judicial Qualifications Commission.

HB 808 (above) is the companion legislation that provides the general law provisions that would replace this paragraph.

Authored By: Rep. Wendell Willard (51st)

House Committee: Judiciary

Committee Action:

02-11-2016 Do Pass by Committee Substitute

SB 255 Garnishment Proceedings; modernize, reorganize, and provide constitutional protections

Bill Summary: Repeals current text of Title 18, Chapter 4 relating to garnishment proceedings and enacts an entirely new chapter outlining procedures and deadlines to be followed and forms to be used in conducting garnishment proceedings.

Article 1: General Provisions

Definitions (Lines 23-48)

Article 1 contains definitions for terms used throughout the bill, including disposable earnings, earnings, entity, financial institution, garnishee answer, and public corporation.

Availability of Garnishment; Uniform Garnishment Procedure (Lines 49-61)

The bill provides that garnishment procedures are to be uniform throughout the state in courts that have jurisdiction over garnishments. Under this bill, garnishments are available as a form of judgment collection in any case where a money judgment is obtained in a state or federal court in Georgia or is being enforced in Georgia pursuant to the Uniform Foreign-Country Money Judgments Recognition Act or the Uniform Enforcement of Foreign Judgments Law. Garnishment proceedings are subject to the Civil Practice Act unless otherwise provided in the bill. Affidavits, answers, and pleadings filed under the provisions of the bill are amendable at any time before judgment is entered or before money or other property subject to garnishment is distributed by the court.

Affidavit and Summons of Garnishment (Lines 62-79, 149-190, 254-266)

The bill specifies the process for filing an affidavit of garnishment by the plaintiff or his attorney or agent. Such affidavit must indicate, on personal knowledge or belief: (a) that the plaintiff has a judgment against the defendant, (b) the amount remaining due on the judgment, (c) the name of the

court that rendered the judgment, and (d) the case number. Upon filing of a proper affidavit, the clerk of the court will issue a summons of garnishment with the information set forth in Lines 149 to 190 of the bill. Summonses may be issued from time to time until a judgment is paid or the garnishment proceeding is terminated. No new summons may be issued more than two years from the filing of the original affidavit of garnishment. The summons must indicate that if the garnishee fails to file an answer in a timely manner, a default judgment may be entered against the garnishee for the amount due on the judgment shown on the garnishment affidavit. The bill provides that a summons of garnishment on a financial institution cannot be used for a continuing garnishment or a continuing garnishment for support.

Obligations, Funds, and Property Subject to Garnishment (Lines 80-94)

The bill provides that the following are subject to garnishment proceedings:

- All obligations owed by the garnishee to the defendant at the time of service of the summons of garnishment upon the garnishee and all such obligations accruing during the relevant garnishment period; and
- All money and other property of the defendant in the possession or control of the garnishee at the time of service of the summons or coming into the possession of the garnishee during the relevant garnishment period (with an exception for collateral securities in the hands of a creditor).

Garnishment Periods (Lines 95-103)

The garnishment period begins on the day of service of the summons of garnishment and continues as follows:

- For continuing garnishments, the next 179 days;
- For garnishments served on a financial institution (other than continuing garnishments or continuing garnishments for support), the next 24 hours;
- For continuing garnishments for support, for the period of time the defendant is employed by the garnishee until the original arrearage is retired; and
- For all other garnishments, the next 29 days.

Maximum Portion of Disposable Earnings Subject to Garnishment (Lines 104-116)

Subject to exemptions and exceptions for continuing garnishments for support, disposable earnings subject to garnishment may not exceed:

- 25 percent of the defendant's weekly disposable earnings; or
- The amount by which the defendant's weekly disposable earnings exceed \$217.00.

If earnings are calculated on other than a weekly basis, equivalent multiples of \$7.25/hour should be used in calculating the above limitation. These limitations apply in circumstances where multiple garnishments are filed seeking property of the same defendant (except for continuing garnishments for support).

Anti-Retaliation (Lines 117-120)

The bill prohibits an employer from discharging an employee due to the filing of a garnishment seeking such employee's earnings.

Exemptions from Garnishment (Lines 121-148)

The bill specifies that certain property of the defendant may be exempt from garnishment and that such property is not considered disposable earnings for purposes of the bill. The bill directs the Attorney General to create and maintain a list of exemptions on the website of the Department of Law and to update such list when exemptions are repealed, revised, or created. The Attorney General is also directed to transmit a copy of the exemption list (including updates) to each clerk of court in Georgia who issues summonses of garnishment. Clerks of court who issue garnishments are directed to post and update such list upon receipt from the Attorney General and to make such list available to the public upon request. The bill provides that even if an exemption is not identified by the Attorney General, a defendant is not precluded from claiming such exemption based solely on that fact.

Service of Process (Lines 191-253)

Service of process by the plaintiff on the garnishee and the defendant is to be carried out via the

process outlines in Lines 191-250.

Garnishee's Answer (Lines 267-344)

The garnishee must respond to the garnishment by stating what money or property is subject to garnishment on the following schedule:

- For a regular garnishment, the garnishee's answer must be filed with the court between 30 and 45 days after service of the summons;
- For a garnishment on a financial institution, the answer must be filed with the court between one and ten days after service of the summons (or immediately if the bank does not have any money or property of the defendant).

The money or property subject to garnishment must be paid or delivered to the court concurrently with the answer. Lines 284 to 344 specify other requirements for the filing and service of the garnishee's answer.

Reimbursement for Expenses (Lines 345-364)

The bill provides that a garnishee is entitled to receive its actual reasonable expenses in preparing and filing an answer. Such expenses are to be taxed to the bill of costs. The bill permits the garnishee to deduct \$50.00 or 10 percent of the amount paid into court, whichever is greater (not to exceed \$100), as reasonable attorney fees or expenses. Such prescribed deductions may be challenged by the garnishee in the event it incurs additional expenses.

Defendant's Claims (Lines 365-406)

The bill provides that a garnishment is an action between the plaintiff and the garnishee but that the defendant can become a party to the garnishment by filing a claim with the clerk of court at any time before a judgment is entered or before money or property subject to garnishment is distributed. Claims must be served on the garnishee and the plaintiff. The filing of a claim does not relieve the garnishee from its obligations under this bill. If the defendant states in its claim that a third party may have a superior claim to the property, the claim must also be filed on that third party.

The bill provides that even when earnings are held at a financial institution, the money may be exempt from garnishment due to the limitations set forth in the bill or for other reasons.

Upon filing of a claim, the judge must order a hearing to be held within 10 days from the date of the claim. The validity of a judgment may only be attacked as provided in the Civil Practice Act (not in the garnishment proceeding), but if the judge determines that the defendant has attacked the validity of the judgment in the appropriate forum, the judge may order a stay of the garnishment until the validity of the judgment has been determined.

Plaintiff's Traverse (Lines 407-411)

Within 20 days after the plaintiff is served with the garnishee answer, the plaintiff may file a traverse alleging that such answer is untrue or insufficient.

Third-Party Claims (Lines 412-420)

Third parties may file claims on the plaintiff, garnishee, and defendant stating that they have a superior claim to the defendant's money or property at any time before judgment is entered on the garnishee answer or such money or property is distributed. The third party becomes a party to all further proceedings on the garnishment.

Priority of Claims and Garnishments (Lines 421-430)

If money or property is subject to multiple claims or garnishments, the party with the earliest entered judgment has priority. The bill establishes a procedure for claiming and determining such priority and provides that money or property will be distributed in accordance with laws governing relative priority of claims, judgments, and liens.

Trial (431-468)

Defendants' claims are to be tried first, a plaintiff's traverse is to be tried second, and third-party claims are to be tried third. The court is to retain possession of all money or property pending conclusion of all proceedings. The bill specifies procedures to be used for trying claims, traverses,

and third-party claims.

Payment of Plaintiff (Lines 469-484)

When no claims are filed and no traverse is filed within 20 days following the service of the garnishee's answer, money delivered to the court shall be paid to the plaintiff, and property delivered to the court shall be sold under execution and the proceeds delivered to the plaintiff. If money or property admitted to be subject to garnishment is not delivered to the court by the garnishee, default judgment is to be entered against the garnishee in favor of the plaintiff, and execution may issue on such judgment.

Failure or Refusal to File Garnishee Answer; Default Judgment (Lines 485-570)

If a garnishee fails or refuses to file an answer by the 45th day following service of the summons, the garnishee is automatically in default. Such default may be opened by the garnishee within 15 days of the default and the payment of costs. If the 15th day elapses, judgment by default may be entered at any time against the garnishee for the amount remaining due, as shown on the plaintiff's affidavit.

When a garnishee that is a financial institution fails or refuses to file an answer by the 10th day after service of the summons, it is in default. Such default may be opened by the garnishee within 15 days of the default and the payment of costs. If the 15th day elapses, judgment by default may be entered at any time against the garnishee for the amount remaining due, as shown on the plaintiff's affidavit.

The bill specifies circumstances in which a garnishee will be relieved from liability for default based on certain acts or omissions by the plaintiff or third parties. The bill also specifies actions that should be taken by a plaintiff upon entry of a default against a garnishee and actions that a garnishee can take to modify a default judgment.

Release of Summons (Lines 571-586)

The bill provides for a release of a summons of garnishment and provides that it shall relieve the garnishee of its obligations to answer. The bill specifies the circumstances in which the clerk of court should release a garnishment.

Article 2: Provisions Specific to Continuing Garnishments

This article contains provisions that are specific to continuing garnishments taken against a garnishee who is the employer of the defendant against whom a judgment has been obtained. The general provisions from Article 1 apply to continuing garnishments unless otherwise specified.

Affidavit of Continuing Garnishment (Lines 598-608)

Affidavits filed for a continuing garnishment must contain all information required by Article 1 and must state that the plaintiff believes that the garnishee is or may be the employer of the defendant. The plaintiff must serve a summons and provide notice of exemptions in the same manner as required by Article 1 on forms specified in the bill.

Contents of Garnishee (Employer) Answer (Lines 609-637, 651-659)

These provisions specify the required contents on the employer's answer to the garnishment, including a statement of wages or other earnings of the defendant. The first answer by the garnishee must be filed with the court no sooner than 30 days and no later than 45 days after summons of the continuing garnishment. Later garnishee answers must be filed with the court to cover the remaining period covered by the summons (within 45 days of previous answer). All garnishee answers must be accompanied by money subject to garnishment. If the garnishee is not (or is no longer) the employer of the defendant, the garnishee must so state in its answer.

Default Judgment; Discharge from Liability (Lines 638-641, 660-676)

If the garnishee fails to file an answer in a timely manner, a default judgment is entered against the garnishee for the amount remaining due on the judgment, as shown on the plaintiff's garnishment affidavit. The bill also contains provisions relating to discharge of any liability on the part of the garnishee when no claims or traverses have been filed following the filing of the garnishee's answer.

Article 3: Provisions Specific to Continuing Garnishments for Support

This article contains provisions that are specific to continuing garnishments for support taken against a garnishee who is the employer of the defendant against whom a judgment has been obtained. The general provisions from Article 1 and Article 2 apply to continuing garnishments for support unless otherwise specified.

Affidavit of Continuing Garnishment (Lines 706-734)

In addition to the information required by Articles 1 and 2, an affidavit for a continuing garnishment for support must state the following information (which may be amended, as necessitated by changes to modifications or amendments to original judgments for support):

- That the defendant is in arrears on the obligation of support in an amount equal to or in excess of one month's obligation as decreed in such judgment;
- The amount of arrearage which exists under such judgment as of the date of the execution of the affidavit;
- The amount of support due under the judgment for each obligee named therein, taking into account the possible attainment of majority or emancipation or death of any minor child named in such judgment; and
- The date of the termination of the obligation of support of each obligee named in the judgment, based upon the terms of such judgment, or, as to any obligee who is a minor child, the date each such obligee shall attain the age of 18 years.

The plaintiff must serve a summons and provide notice of exemptions in the same manner as required by Article 1 on forms specified in the bill. The summons must notify the garnishee that the garnishment is to collect support obligations.

Funds Subject to Continuing Garnishment for Support (Lines 735-741)

Subject to the limitations set forth in Article 1, the bill specifies that the maximum part of the defendant's disposable earnings for any work week that are subject to a continuing garnishment for support cannot exceed 50 percent of the defendant's disposable earnings for that week. The bill provides that funds or benefits from IRAs or pension or retirement programs are not exempt and are subject to a continuing garnishment for support in the same manner as weekly disposable earnings (unless a greater exemption is otherwise provided by law).

Application of Funds Paid Into Court (Lines 742-766)

Funds paid into court on a continuing garnishment for support are to be first applied to periodic support payments. All sums in excess of that amount are to be applied to the original support arrearage that existed when the plaintiff filed the affidavit for continuing garnishment for support. If the amount of the original arrearage is not satisfied by the funds paid in, additional garnishments for support may be filed by the plaintiff. If the amount paid in does not satisfy the periodic payments, the resulting difference is to be added to the original arrearage. The garnishee is required to file answers until the original arrearage is retired and all support payments are made current.

Duration of Proceedings for Continuing Garnishment for Support (Lines 767-779)

If the defendant is terminated by the garnishee/employer, the employer must file a final answer stating the date of termination. A continuing garnishment for support attaches for so long as the defendant is employed by the garnishee and does not terminate until the original arrearage is satisfied and all support payments are current.

Article 4: Forms

Article 4 contains forms that must be used by parties to garnishment proceedings (parties may use their own formatted form so long as it contains all information in the statutory form). The bill permits expansion or modification of the forms to accommodate multiple parties, the need to include additional information, or the transmission of the form(s) by electronic means. The bill also permits courts to combine multiple forms. However, Lines 186-187 of the bill provide that when a plaintiff uses the incorrect form for a summons of garnishment of any type, the garnishment is invalid and the garnishee is relieved of all liability.

Other Changes to Current Law

The bill makes a conforming change to a provision in Title 44 relating to demands for possession of leased property. The bill also makes a conforming change to a provision in Title 53 relating to spendthrift trusts.

Authored By: Sen. Jesse Stone (23rd)
House Judiciary
Committee:

Committee 02-11-2016 Do Pass
Action:

Committee Meeting Schedule

This meeting schedule is up to date at the time of this report, but meeting dates and times are subject to change.

To keep up with the latest schedule, please visit www.house.ga.gov and click on [Meetings Notices](#).

Friday, February 12, 2016		
9:30 AM	JUDICIARY NON-CIVIL	406 CLOB
Saturday, February 13, 2016		
Sunday, February 14, 2016		
Monday, February 15, 2016		
Tuesday, February 16, 2016		
10:00 AM	Floor Session (LD 21)	House Chamber
1:00 PM	Academic Achievement Sub	515 CLOB
2:00 PM	Academic Support	515 CLOB
2:00 PM	BANKS & BANKING	341 CAP
2:00 PM	ENERGY, UTILITIES AND TELECOMMUNICATIONS	403 CAP
3:00 PM	PUBLIC SAFETY & HOMELAND SECURITY	406 CLOB
3:00 PM	State Government Administration Sub	515 CLOB